

FILED

APR - 1 2014

RICHARD S. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: HOPKINS KEVIN

(Last)

(First)

(Middle)

Prisoner Number: V76611

Institutional Address: P.O. BOX 4000, VACAVILLE, CA 95696-4000

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

KEVIN L. HOPKINS

(Enter your full name.)

vs.

THE SALVATION ARMY, MICHAEL

O'REILLY, COMMANDER MAN HEE

CHANG, DOES 1-20 INCLUSIVELY

(Enter the full name(s) of the defendant(s) in this action.)

JUDGE CLARE MAIER LAWRENCE KAPLAN

CV 14 1494

Case No.

(Leave blank; to be provided by Clerk of Court)

COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C. § 1983WHO
(PR)

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement CALIFORNIA STATE PRISON-SOLANO

B. Is there a grievance procedure in this institution? YES ☒ NO ☐C. If so, did you present the facts in your complaint for review through the grievance procedure? YES ☐ NO ☒

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

I. Informal appeal: N/A

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2. First formal level: N/A

3. Second formal level: N/A

4. Third formal level: _____

E. Is the last level to which you appealed the highest level of appeal available to you?

YES ☐ NO ☐

F. If you did not present your claim for review through the grievance procedure, explain why.

II. Parties.

A. Write your name and present address. Do the same for additional plaintiffs, if any.

KEVIN HOPKINS, V76611, P.O.BOX 4000, VACAVILLE, CA 95696-4000

B. For each defendant, provide full name, official position and place of employment.

Lawrence Kaplan 3527 Mt. Diablo, #283, Lafayette, CA 94549

Michael O'Reilly & Man-Hee Chang-601 Webster St. Oakland,

CA 94607, Judge Clare Maier, 725 Court Street, Martinez, Ca

1 **III. Statement of Claim.**

2 State briefly the facts of your case. Be sure to describe how each defendant is involved and
3 to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If
4 you have more than one claim, each claim should be set forth in a separate numbered paragraph.

5 American Disability Act violations under American Disability
6 Act under Article One and two.
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16 **IV. Relief.**

17 Your complaint must include a request for specific relief. State briefly exactly what you
18 want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.
19 Wherefore, plaintiff prays that the court declare that

20 defendants are in violation of plaintiff disability under

21 American Disability Act Article One and Two. Plaintiff

22 further request general, punitive, compensatory damages and

23 any and all relief that the court may find fair and just.

24 Demand for jury trial.

25 **I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

26 Signed this 24th day of March, 2014

27 Kevin L. Hepkin
28 (Plaintiff's signature)

Please continue to the next page.

MAGISTRATE JUDGE JURISDICTION

Please indicate below by checking one of the two boxes whether you choose to consent or decline to consent to magistrate judge jurisdiction in this matter. Sign this form below your selection.

☐ **Consent to Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily consent to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment.

OR

☒ **Decline Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I decline to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment.

Signed this 24th day of March, 2014

Kevin Hopkins
(Plaintiff's signature)

1 Plaintiff was booked into Contra Costa County Jail on December 18, 2010.

2 On September 5, 2012, plaintiff entered into a plea agreement for a six year
3 joint suspension forfeiting twenty-two months back time and accepting 80 percent
4 time credits instead of the previous offer of six years with half time (fifty
5 percent credits). In short plaintiff choose rehabilitation over incarceration.

6 Plaintiff entered The Salvation Army's Adult Rehabilitation program on Sept.

7 20, 2012. On October 3, 2012, plaintiff was admitted to hospital for fungus

8 infection treated and released. On October 30, 2012, plaintiff was admitted

9 to hospital for respiratory infection treated and released. On November 2,

10 2012, plaintiff was admitted and released for knee injury suffered on November

11 1, 2012. On November 2, 2012, plaintiff was denied entry to the Salvation

12 Army solely because of his knee injury that occurred because of the defendant's

13 failure to maintain and repair their facility, hence, plaintiff being medically

14 terminated. Plaintiff asserts and alleges Disability under the Disability

15 Act constitutional amendment violations by the Salvation Army. When defendants

16 had no use for plaintiff's labor because of his limited ability he was

17 medically terminated, in violation of plaintiff's constitutional rights to

18 be free from discrimination because of his disability. Discrimination was

19 in the form of termination from the program and denying me reentry solely

20 because of my knee injury that was due to Defendants, The Salvation Army, Does

21 1-20 inclusively failure to maintain facility thus terminating+excluding

22 plaintiff from the program. All Does Defendants will be added after discovery,

23 plaintiff requesting leave to Amend. Michael O'Reilly is being sued in his

24 individual and official capacity. On March 15, 2013, Defendant O'Reilly

25 testified on March 15, 2013 at plaintiff probation revocation hearing that

26 plaintiff performance was exceptional though plaintiff could not gain re-entry

27 into the Salvation Army solely because of plaintiff's limited ability because

28 of his knee injury that was caused because of defendants failure

1 to maintain their facility. Such discrimination falls under the American
2 with Disability Act. Defendant Major Man-Hee Chang is being sued in his
3 individual and official capacity as the Adult Rehabilitation Center Commander,
4 that is in charge of the operation and overseer of his staff and director
5 of the termination of plaintiff in violation of plaintiff's disability under
6 American with a Disability. Plaintiff should reiterate that Defendant's were
7 directly negligent for plaintiffs injuries. On November 27, 2012, Defendants
8 Cleared area in a letter to Cal-Osha of the contaminant area that caused
9 plaintiff fungal and respiratory infection. On April 26, 2013 in a letter
10 to Cal Osha, defendants made corrective measures calling in a architect-
11 contractor to repair the dilapidated flooring throughout the warehouse
12 that caused plaintiffs' knee injury.

13 Contra Costa County Superior Court Judge Clare Maier is being sued in her
14 individual and official capacity for violating Plaintiff constitutional right
15 Under American with a Disability Act. Though plaintiff was on crutches she
16 would not accept a American Disability Act accessible program for plaintiff
17 though plaintiff presented several. Defendant was adamant about plaintiff
18 going back to the salvation army though plaintiff was injured there. Salvation
19 Army would not accept reentry. Defendant Maier abused plaintiff disability
20 under American Disability Act and gave plaintiff his joint suspension solely
21 because plaintiff got injured and was terminated. Due to no fault and power
22 over plaintiff he was grossly discriminated against. All qualified immunity
23 assertions by the defendant is voided for such despicable violations towards
24 plaintiff's liberty.

25 Plaintiff was medically terminated from the Salvation Army on Friday November
26 2, 2012 and did the next right thing and went to court and placed himself
27 on calendar Monday, November 5, 2012 to inform the court of his medical
28 termination from the Salvation Army and was in turn remanded into custody.

1 Because of the court's bias and discrimination against plaintiff, he was *given*
2 the joint suspension solely based on an injury sustained at The Salvation Army.
3 Medical Termination was not willful and started the process of plaintiff
4 being committed to prison which has led to violations of the American with
5 Disability Act by all the aforementioned defendants. Plaintiff pled to
6 a much stiffer penalty in choosing rehab over incarceration. Plaintiff was
7 solely discriminated against based on his Disability that was perpetrated
8 by the negligence of the defendants to maintain and repair their facility,
9 thus leading to the termination from the rehabilitation program, and finally,
10 the sole cause for rejected re-entry which Defendant Maier would not allow
11 no other program and my remand into custody of the state prison, which I
12 committed to the Defendants the Salvation Army to avoid prison life. (Reason:
13 Knee injury resulting in my disability.)

14 Defendant Maier abused her judicial powers and knew what she from
15 was doing was unlawful. On September 26, 2012, the court received a letter faxed
16 from Sutter Medical, Doctor Brian Richardson which was plaintiff's neurologist, whom stated
17 that plaintiff could not do a work therapy program because of his
18 medical condition. Even though the courts received a letter
19 noting a serious medical condition, defendant Maier still ordered
20 that plaintiff be sent back to Salvation Army though Salvation
21 Army denied re-entry. Defendant Clare Maier denied plaintiff's
22 serious disability and abused her discretion though the evidence
23 of plaintiff's disability was right before her. All Defendants
24 are in direct violation of American Disability Act, Article 1 and
25 Article 2.

26 Lawrence Kaplan which was plaintiff's court appointed attorney
27 is too be sued in his official and individual capacity for he knew
28 of plaintiff's ADA and did not inform the court. He suggested I

1 go to a program knowing that I was being seen by the Spine Clinic
2 at the Martinez Regional Center Hospital. Defendant Kaplan acted
3 in total recklessness in the representation of plaintiff knowing
4 plaintiff had a chronic medical condition. Defendant Kaplan
5 violated plaintiff's ADA accomodation and as negligent as all
6 Defendants in this complaint. Lawrence Kaplan the named defendant
7 knew of plaintiff's disability. A part of plaintiff's defense
8 was discriminatory prosecution in a lawsuit that plaintiff lodged
9 against Contra Costa County officials where plaintiff was assaulted
10 by an inmate and was being seen at the Contra Costa Regional
11 Medical Center and was referred from the jail. Defendant knew of
12 plaintiff disability and requested that plaintiff try to pull the
13 program and advised plaintiff if he could not do the work therapy
14 a medical termination would not penalize him with the court,
15 Defendant could not allege he did not know of plaintiff's medical
16 condition, thus, recklessly walking plaintiff into a plea agreement
17 for it was my defense with him and the previously appointed lawyers
18 whom declared conflicts of interests because of discriminatory
19 prosecution theory. Defendant at all times was deliberately
20 indifferent to plaintiff's representation and ADA accomodations..
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The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS KEVIN L. HOPKINS**DEFENDANTS** THE SALVATION ARMY,
MICHAEL O'REILLY, COMMANDER MAN-HEE
CHANG, DOES 1-20 INCLUSIVELY, JUDGE CLARE
MAIER, LAWRENCE KAPLAN.**(b)** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF SOLANO
(EXCEPT IN U.S. PLAINTIFF CASES)COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT ALAMEDA
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED**(c)** ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

IN PRO PER

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ **Federal Question**
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

VIOLATIONS OF AMERICAN WITH A DISABILITY ACT. PLAINTIFF
SUFFERED INJURY AT SALVATION ARMY DUE TO THEIR NEGLIGENCE TO MAINTAIN AND REPAIR
THEIR ESTABLISHMENT THAT RESULTED TO MY INJURY AND ADA MATTER.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 60 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
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VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A **CLASS ACTION**
☐ UNDER F.R.C.P. 23**DEMAND \$**

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

March 24, 2014 Kevin L. Hopkins

PROOF OF SERVICE BY MAIL
BY PRISONER "IN PRO PER"

I hereby certify that I am over the age of 18 years of age, that I am representing myself, and that I am a prison inmate.

My prison address is: California State Prison - Solano
Housing: 19-139L
P.O. Box 4000
Vacaville, California 95696-4000

On the "date" specified below, I served the following document(s) on the parties listed below by delivering them in an envelope to prison authorities for deposit in the United States Mail pursuant to the "Prison Mailbox Rule":

Case Name: Hopkins vs. Salvation Army Case #: _____

Document(s) Served: 1. Civil Cover Sheet 2. Complaint
Under THE Civil Rights Act 42 U.S.C. § 1983
3. Motion For Appointment of Counsel 4. IN FORMA PAUPERIS
Application

The envelope(s), with postage fully pre-paid or with a prison Trust Account Withdrawal Form attached pursuant to prison regulations, was/were addressed as follows:

CLERK OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA
450 Golden Gate Avenue
Box 36060
SAN FRANCISCO, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. This declaration was executed on March 24, 2014, in Vacaville, California.

"date"

Signature: _____

Kevin L. Hopkins

Printed Name: _____

KEVIN L. Hopkins

CIVIL COVER SHEET

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DEFENDANTS THE SALVATION ARMY,
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MAIER, LAWRENCE KAPLAN

COPY

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF SOLANO
(EXCEPT IN U.S. PLAINTIFF CASES)

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NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
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IN PRO PER

ATTORNEYS (IF KNOWN)

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☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

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DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY:

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CHECK IF THIS IS A
☐ UNDER F.R.C.P. 23

CLASS ACTION

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) (See instructions):
IF ANY

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

March 24, 2014

Kevin L. Hopkins

KEVIN HOPKINS, V26611
CSR-SOLANO II, 19-139L

PO BOX 4000

VACAVILLE, CA 95696-4000

CALIFORNIA STATE PRISON-SOLANO

CSP SOLANO
STATE PRISON



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MAR 26 2014
MAILED FROM ZIP CODE 95687

RECEIVED
MAR 28 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CLERK of the United States
COURT for the Northern District
450 Golden Gate Avenue
Box 36060
SAN FRANCISCO, CA 94102



3-23-14